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GOVERNMENT GAZETTE

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SUPPLEMENT

(No. 2)

(SUPLEMENTO)

GOVERNMENT OF INDIA

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 21st December, 1962/
Agrahayana 30, 1884 (Saka)

The following Acts of Parliament received the assent of the President on the 19th December, 1962, and are hereby published for general information: —

THE EMERGENCY RISKS (GOODS) INSURANCE ACT, 1962

No. 62 of 1962

[19th December, 1962]

An Act to make certain provisions for the insurance of goods in India against damage by enemy action during the period of emergency.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows: —

CHAPTER I

Preliminary

Short title, extent and duration.

- (1) This Act may be called the Emergency Risks (Goods) Insurance Act, 1962.
- (2) It extends to the whole of India.
- (3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962 and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of

10 of 1897.

Definitions.

this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had been repealed by a Central Act.

2. In this Act, unless the context otherwise requires, —

- (a) “enemy” means —
- (i) any person or country committing external aggression against India;
 - (ii) any person belonging to a country committing such aggression;
 - (iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;
 - (iv) any person belonging to such other country;

(b) “goods” means any materials, commodities or articles and includes materials, commodities or articles used in or for the construction of any ship up to the time at which the ship after construction is launched;

(c) “Scheme” means the Emergency Risks (Goods) Insurance Scheme made under this Act;

(d) “seller of goods” includes a seller of goods acting as an agent;

(e) “supplier of goods” means a person carrying on a business in the course of which he supplies goods for the purpose of, or in pursuance of, contracts made by him for work, labour and materials;

(f) "emergency risks" means such risks arising from —

- (i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;
- (ii) any explosion or fire which involves explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with, the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;
- (iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as a direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);
- (iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving a substantial degree of risk to property;
- (v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property;
- (vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving a substantial degree of damage to or diminution of value of property.

CHAPTER II

Insurable goods and Insurance Scheme

Goods insurable under the Act.

3. (1) Subject to the provisions of this section, the following goods shall, in relation to any person carrying on business in India as a seller or supplier of goods of any description, be deemed to be goods insurable under this Act, that is to say, all goods situated in India or, consigned from one place in India to another place in India and in transit, being either —

- (i) goods of that description, or
- (ii) goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description:

Provided that no goods shall be deemed to be insurable under this Act —

(a) in relation to any person, being the owner of the goods, who carries on business as a seller of goods, unless they are owned by him with a view to being sold, or to being used as material for the production of goods to be sold, or as ingredients or component parts of goods to be sold;

(b) in relation to any person, being the owner of the goods, who carries on business as a supplier of goods, unless they are owned by him with a view to being supplied for the purpose of, or in pursuance of, a contract made by him for work, labour and materials or to being used as material for the production of goods to be supplied as aforesaid, or as ingredients or component parts of goods to be supplied.

(2) The Central Government may, by notification in the Official Gazette, direct that goods of any description specified in the notification shall, notwithstanding anything contained in this section, be deemed not to be goods insurable under this Act and a copy of such notification shall be laid after it has been made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is laid, whichever period is less.

(3) Nothing in sub-section (1) shall apply in relation to goods which are owned by Government or in respect of which the Government is the seller or supplier.

Ownership.

4. (1) Save in so far as is otherwise expressly provided in this Act, any goods, shall, subject to the provisions of this section, be deemed for the purposes of this Act to be owned. —

(a) if the property in the goods is for the time being vested in a person in relation to whom they are insurable under this Act, by that person;

(b) if the property in the goods is not so vested, by any person in relation to whom the goods are insurable under this Act and who is for the time being entitled, either unconditionally or conditionally, to have the property in the goods vested in him:

Provided that where —

(i) any goods would, under the foregoing provisions of this section, be deemed to be owned by a person in whom the property therein is vested otherwise than in the course of a business carried on by him in India, or who is entitled to have the property therein vested in him otherwise than in the course of such a business, and

(ii) any person carrying on business in India is for the time being entitled to sell the goods as agent,

the goods shall be deemed to be owned by the last mentioned person.

(2) Where in the course of any business a ship is being, or has been, constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof —

(a) would, apart from the provisions of this sub-section, have been deemed for the purposes of this Act to be owned at any time by the person from time to time carrying on the business, or

(b) have at any time been accepted, in pursuance of a contract made with him, by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of sub-section (3), be deemed, in a case to which clause (a) of this sub-section applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being or has been, constructed, and in a case to which clause (b) of this sub-section applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said clause (b) and the acceptance of the ship as aforesaid by the person for whom it is being, or has been, constructed.

(3) The provisions of sub-section (2) shall apply in relation to the construction under contract in the course of a business of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship —

(a) with the substitution for references to a ship of references to part of a ship;

(b) where the contract for the part of the ship is, with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof;

(c) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

(4) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the Scheme, in respect of the loss of or damage to a ship, part of a ship or goods which

Emergency
Risks
(Goods)
Insurance
Scheme.

are deemed to be owned by him by virtue of sub-section (2) or sub-section (3), the money shall be held by him on trust for the person who, apart from the provisions of those sub-sections, would be deemed for the purposes of this Act to be the owner of the ship, part or goods, subject, however, to any lien or charge which would otherwise be enforceable against the ship, part or goods and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first mentioned person in making good any part of the loss or damage which he is liable to make good.

5. (1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Goods) Insurance Scheme, whereby the Central Government undertakes in relation to persons carrying on business in India as sellers or suppliers of goods, the liability of insurance of such persons against emergency risks, to the extent provided by or under this Act, in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business.

(2) The Scheme may also extend —

(a) to the undertaking by the Central Government, in relation to any person carrying on business in India as seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods insurable under this Act which are not owned by him but in which he has an interest arising in the course of that business;

(b) without prejudice to the provisions of clause (a) of this sub-section, to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such a person against emergency risks in respect of —

(i) any goods situated in India which are in his possession, otherwise than under a hire purchase agreement, for the purposes of that business,

(ii) any goods situated in India which are subject to a mortgage, pledge or charge in his favour held by him in the course of that business,

being in either case goods which are not owned by him but which are insurable under this Act in relation to the person by whom they are owned;

(c) to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such person against emergency risks in respect of any goods situated in India, which having been sold in India, for export from India, are in his possession for the purpose of such export and are goods which were prior to such sale insurable under this Act in relation to the person by whom they were then owned;

(d) to the undertaking by the Central Government, in relation to any person carrying on any business in India as a seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods imported into India through any port of India, while such goods are situated at such port or are in transit to a place in India.

(3) The Scheme shall be such as to secure —

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government:

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme; and

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) Different forms of policies may be specified under sub-section (3) in relation to different descriptions of goods.

(5) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(6) Every Scheme shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Scheme.

Employment
of agents by
Central Gov-
ernment.

6. The Central Government may, by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for any of the purposes of this Act and may pay to the person so employed such remuneration as it may think fit.

Power to
make insur-
ance com-
pulsory.

7. (1) While the Scheme is in operation, no person shall, after such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, carry on any business in India as a seller or supplier of goods, unless, in respect of any goods insurable under this Act which are for the time being owned by him in the course of that business, there is in force a policy of insurance against emergency risks issued in accordance with the Scheme, whereby he is insured in respect of such goods for a sum not less than the value thereof for the time being:

Provided that the Scheme shall not restrict the carrying on of business as aforesaid by any person, if and so long as the value of all goods insurable under this Act which are for the time being owned by him within one and the same Presidency town or district in the course of that business does not exceed thirty thousand rupees.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to one thousand rupees and with further fine which may extend to five hundred rupees for every day after the first on which the contravention continues.

Omission to
insure or to
insure up to
the full
amount

8. (1) Without prejudice to the provisions of sub-section (2) of section 7, where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as an arrear of land revenue and shall be a first charge on the goods in respect of which the default was made.

(2) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

Restrictions
on carrying
on of certain
insurance
business.

9. (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on any business of insuring persons carrying on business in India as sellers or suppliers of goods against emergency risks in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business as is last mentioned.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand

rupees and with further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

Emergency
Risks (Goods)
Insurance
Fund.

10. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year to a fund to be called the Emergency Risks (Goods) Insurance Fund (hereinafter referred to as the «Fund») such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payments made on composition of offences under section 15 or by way of expenses or compensation awarded by a court, under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act.

5 of 1898.

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under the Scheme or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(3) If at any time when a payment is to be made out of the Fund, the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare, in such form and manner as may be specified in the Scheme and shall publish either annually or at such shorter intervals as may be specified therein, on account of all sums received into and paid out of the Fund.

CHAPTER IV

Miscellaneous

Power of
Central Go-
vernment to
obtain infor-
mation.

11. (1) Any person authorised in this behalf by the Central Government may, for the purposes of ascertaining whether or not the requirements of this Act have been complied with,—

(a) require any person carrying on in India the business of fire insurance or of a seller or supplier of goods to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises occupied by any person carrying

on in India the business of a seller or supplier of goods for the purposes of that business and may inspect the premises and require any person found therein who is for the time being in charge thereof, or in control of the business carried on therein, to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in the premises and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether or not, and, if so, to what extent, the person carrying on the business is insured under the Scheme in respect of goods owned by him in the course of that business, and of ascertaining the value of any goods insurable under the Scheme which are, or were at any relevant time, owned by him in the course of that business and the maximum amount which would be recoverable in respect of any such goods under a policy issued under this Act.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without any reasonable excuse to comply with a demand made thereunder, shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to five hundred rupees.

(3) Whoever, in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement false in a material particular, shall be punishable with fine which may extend to one thousand rupees.

(4) Where in any proceedings in respect of a contravention of section 7 in relation to any business, it is proved, in relation to that business—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the person carrying on the business was duly made under this section and was not complied with, and

(b) that the person making the demand was not satisfied that there was such a policy in existence,

it shall be presumed, except in so far as the contrary is proved, that the said section 7 was being contravened in relation to that business at the time when the demand was made and continued to be contravened in relation to that business at all times thereafter.

Punishment
for giving
false infor-
mation.

12. If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to the action of the enemy or under a policy issued in pursuance of the Scheme,—

(a) furnishes any information which he knows to be false in a material particular,

or recklessly furnishes any information which is false in a material particular; or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(c) with intent to deceive, withholds any material information,

he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term not exceeding three months, or with both.

Refund of premiums in certain cases.

13. (1) Where goods of any description have been insured by a seller or supplier of goods for any period, and before that period has elapsed the goods of that description have ceased, by virtue of a notification under sub-section (2) of section 3 to be goods insurable under this Act, the person who has insured such goods shall be entitled to a proportionate refund of the premium.

(2) No suit shall be maintainable in any civil court against the Central Government or any person acting as the agent of the Central Government under section 6 for the refund of money paid or purporting to have been paid as premium in respect of any policy issued or purporting to have been issued under this Act.

Limitation on prosecution.

14. No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Central Government or an authority authorised in this behalf by the Central Government.

Composition of offences.

15. Any offence punishable under sub-section (2) of section 7, or sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government, on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

Bar of legal proceedings.

16. No suit, prosecution, or other legal proceedings shall lie against the Central Government or against any person for anything which is in good faith done or intended to be done under this Act.

Power to remove difficulties.

17. If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether a person is insurable in respect of any goods under this Act, the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the order of the Central Government, in such cases, shall be final.

THE EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962

No. 63 of 1962

[19th December, 1962]

An Act to make provisions for the insurance of certain property in India against damage by enemy action during the period of emergency.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, extent and duration.

1. (1) This Act may be called the Emergency Risks (Factories) Insurance Act, 1962.

(2) It extends to the whole of India.

10 of 1897.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962, and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had been repealed by a Central Act.

Definitions.

2. In this Act, unless the context otherwise requires, —

(a) "building" includes foundations, plinths, floors, staircases, tanks, engine and boiler beds, chimneys, flues and boundary walls;

(b) "enemy" means —

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(c) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

(d) "factory buildings" includes all buildings comprised in the factory and such other buildings (including residential buildings of staff and workmen, hospitals and welfare centres) within a radius of two miles from the main factory building as are in the same ownership or occupation as the factory and are used for the purposes of the factory;

(e) "the Fund" means the Emergency Risks (Factories) Insurance Fund constituted under section 7;

63 of 1948.

(f) "insurable value" of property means the value of the property as ascertained for the purposes of insurance under this Act;

(g) "occupier" of a factory has the meaning assigned to it in clause (n) of section 2 of the Factories Act, 1948;

(h) "owner" of a factory includes, when parts of the property insurable under this Act in relation to the factory are owned by different persons, each such person in respect of the part owned by him;

(i) "property insurable under this Act" means, in relation to any factory, the factory buildings and, except where they are for the time being goods insurable under the Emergency Risks (Goods) Insurance Act, 1962, all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery or in the construction or reconstruction or maintenance of factory buildings, and such other plant, machinery or materials as may be specified in the Scheme;

(j) "quarter" means a period of three months commencing on the first day of January, April, July or October;

(k) "the Scheme" means the Emergency Risks (Factories) Insurance Scheme made under this Act;

(l) "emergency risks" means such risks arising from —

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves any explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving risk to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving risk to property;

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving damage to or diminution of the value of property.

CHAPTER III

Emergency Risks (Factories) Insurance Scheme

Emergency Risks (Factories) Insurance Scheme.

3. (1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Factories) Insurance Scheme, whereby the Central Government undertakes in relation to factories the liability of insuring property insurable under this Act against emergency risks, to the extent provided by or under this Act.

(2) The Scheme may extend to the undertaking by the Central Government in relation to any person in India of the liability of insuring such person against emergency risks in respect of any property insurable under this Act which is not owned by him but in which he has an interest, up to the extent of such interest.

(3) The Scheme shall be such as to secure —

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government;

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme;

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) The Scheme may provide —

(a) for undertaking in relation to works in course of construction which, when completed, will become factories, and such plant and machinery appertaining to such works as may be specified in the Scheme, the same liabilities as are undertaken by the Scheme in relation to factories;

(b) that the payments due under a policy of insurance issued under the

Scheme, may at the option of the Central Government, take either of the following forms, namely:—

(i) payment, within the limits of the liability assumed by the Central Government and in such manner and by such instalments as the Central Government may think fit, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of the damage, or

(ii) compensation, within the aforesaid limits, for the loss in value, ascertained on the basis of values and prices ruling at the time at which the policy of insurance was taken out, or at which the loss occurred whichever is less, suffered by the property as a result of the damage, after due allowance has been made for depreciation during the period of insurance cover;

(c) that payments due under a policy of insurance under the Scheme may be postponed to any time before the expiry of one year from the date on which this Act ceases to be in force, or, subject to payment of interest at the rate of two per cent. per annum from the expiry of the said year, to any later date;

(d) for making it an express or implied condition of any policy of insurance issued under the Scheme—

(i) that the owner or occupier of a factory shall comply with all regulations or instructions made or issued under the authority of Government for safeguarding the property against damage from emergency risks, or

(ii) that, where the Central Government exercises its option to pay the cost necessary to restore the property to its original condition the owner of the factory shall, if so required by the Central Government, reconstruct the factory or remove the factory to and reconstruct it in another locality.

(5) Different forms of policies may be specified in the Scheme under sub-section (3) in relation to different classes of factories.

(6) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(7) Every Scheme shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the

case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Scheme.

Employment of agents by the Central Government.

4. The Central Government may by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for any of the purposes of this Act, and may pay to the person so employed such remuneration as it may think fit.

Duty of owner of factory to insure against emergency risks.

5. (1) While the Scheme is in operation, every owner of a factory, except a factory belonging to Government or a factory exempted under section 15 from the provisions of this Act, shall, by such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, or, in respect of premises becoming a factory or property becoming property insurable under this Act after that date or in a case to which sub-section (2) refers, before the commencement of the quarter next following that in which the premises become a factory or the property becomes insurable under this Act, or as the case may be, in which the reconstruction of the factory is completed, take out a policy of insurance against emergency risks issued in accordance with the Scheme, whereby he is insured in respect of all property insurable under this Act, which appertains to the factory for a sum not less than the insurable value of such property:

Provided that where the owner of the factory is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section, himself take out the policy, and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy.

(2) The obligation imposed by sub-section (1) includes, when the owner of the factory is required by the Central Government to reconstruct a factory which has suffered damage, an obligation to take out an additional policy of insurance as required by the sub-section in respect of the reconstructed factory.

(3) When a factory in respect of which a policy of insurance against emergency risks has been taken out as required by this section is transferred from one owner to another or there is a change of occupier of the factory, the policy may be transferred to the new owner or occupier and such new owner or occupier shall succeed to all rights and liabilities under and in relation to the policy as if the policy had been in the first instance taken out by him.

(4) Whoever contravenes the provisions of sub-section (1) or the proviso

thereto, or, having taken out a policy of insurance as required by that sub-section, fails to pay any instalment of premium thereon which is subsequently due, shall be punishable with fine which may extend to two thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention or failure continues, and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure.

(5) Where any offence under sub-section (4) is tried by a Presidency magistrate or a magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898, the magistrate trying the offence may pass any sentence authorised by that sub-section.

5 of 1898.

Restrictions
on carrying
on certain
insurance
business

6. (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring factories in India against emergency risks in respect of property insurable under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

Emergency
Risks (Fac-
tories) Insu-
rance Fund.

7. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year, to a fund to be called the Emergency Risks (Factories) Insurance Fund (hereinafter referred to as the «Fund») such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payments made on composition of offences under section 13 or by way of expenses or compensation awarded by a Court, under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act.

5 of 1898.

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under the Scheme, or for payments by the Central Government under section 10, or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(3) If at any time when a payment is to be made out of the Fund the sum standing to the credit of the Fund is less than the sum required for the making of that

payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare in such form and manner as may be specified in the Scheme and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

CHAPTER III

Miscellaneous

Power of
Central Go-
vernment to
obtain in-
formation.

8. (1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Act has taken out a policy of insurance as required by this Act in respect of such property, or for the purpose of investigating the insurable value of any property insured, or required to be insured, or proposed for insurance under this Act, or for the purpose of estimating the damage suffered by any property insured under this Act,—

(a) require the owner or occupier of the property, or any person carrying on in India the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises comprising or containing the property, inspect such premises or property, and require any person found on such premises who is for the time being in charge thereof, or in control thereof, or whom he believes to be in possession of information relevant to his investigation, to produce to him and allow him to examine such accounts, books or other documents as he may think necessary, or to furnish to him such other information as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any demand made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees.

(3) Whoever, in purporting to comply with his obligations under this section,

knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees.

(4) Where in any proceedings in respect of a contravention of section 5 in relation to any factory, it is proved, in relation to that factory—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the owner or occupier of the factory was duly made under this section and was not complied with, and

(b) that the person making the demand was not satisfied that there was such a policy in existence, it shall be presumed, except in so far as the contrary is proved, that the said section 5 was being contravened in relation to that factory at the time when the demand was made and continued to be contravened in relation to that factory at all times thereafter.

Punishment for giving false information.

9. If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to the action of the enemy or under a policy issued in pursuance of the Scheme—

(a) furnish any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in material particular, or

(c) with intent to deceive, withholds any material information, he shall be punishable with fine which may extend to five thousand rupees or with imprisonment for a term not exceeding three months or with both.

Payments towards cost of removal and reconstruction of factory.

10. Where the Central Government requires the owner of a factory to remove the factory and to reconstruct it in another locality, the Central Government shall make to such owner out of the Fund such payments, in addition to any sum payable under the policy of insurance, as it considers sufficient to defray the cost of the removal and, if necessary, the replacement of any part of the property in respect of which no compensation is payable.

Recovery of premiums unpaid.

11. (1) Without prejudice to the provisions of sub-section (4) of section 5, where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded and the amount so determined

shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any instalment of premium due on a policy of insurance issued under the Scheme, and any amount determined as payable under sub-section (1), shall be recoverable as an arrear of land revenue and shall be a first charge on the property in respect of which the default was made.

(3) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

Limitation on prosecutions.

12. No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Central Government or an authority authorised in this behalf by the Central Government.

Composition of offences.

13. Any offence punishable under sub-section (4) of section 5 may, either before or after the institution of the prosecution, be compounded by the Central Government, or by any authority authorised in this behalf by the Central Government on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

Bar of legal proceedings.

14. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil court against the Central Government, or a person acting as its agent under section 4, for the refund of any money paid or purporting to have been paid as premium on a policy of insurance taken out or purporting to have been taken out under this Act.

Power to exempt factories.

15. (1) The Central Government may, by notification in the Official Gazette, exempt any class or description of factories from the provisions of this Act requiring such factories to be insured or to continue to be insured under this Act; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect.

(2) In granting any exemption under this section the Central Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification.

Refund of premiums in certain cases.

16. Where any factory has been insured by any owner or occupier thereof for any period, and before that period has elapsed the factory or the factory of that descrip-

tion has ceased, by virtue of a notification under sub-section (1) of section 15 to be insurable under this Act, the person who has insured the factory shall be entitled to a proportionate refund of the premium.

Power of Central Government to extend the Act and Scheme to undertakings.

17. (1) The Central Government may, by notification in the Official Gazette, declare that the provisions of this Act and of the Scheme made thereunder shall apply to the insuring against emergency risks of—

35 of 1952.

(a) the plant and machinery, whether above or below ground, appertaining to mines as defined in the Mines Act, 1952, buildings appertaining to mines and within a radius of two miles from the mine excavation and in relation to such plant, machinery and buildings, such materials above ground as would, if the mine were a factory, be included in the term «property insurable under this Act»;

(b) derricks, drills and rigs and group gathering stations and storage tank of an oil mine, plant and machinery required for pumping, refining or processing any mineral oil, and pipe lines;

(c) the whole or a specified part of the distribution systems of gas supply undertakings generally, or of specified gas supply undertakings;

(d) the whole or a specified part of the distribution and transmission systems, sub-stations, switch houses and transformer houses of electric supply undertakings generally, or of specified electric supply undertakings;

(e) the whole or a specified part of the sluice houses, valve houses, water-pipe lines, penstocks and any other plant and machinery pertaining to the intake of hydraulic power of hydroelectric supply undertakings generally, or of specified hydroelectric supply undertakings;

(f) standing tea crops in any garden belonging to the owner of any factory; as they apply to property insurable under this Act which appertains to a factory.

35 of 1952.

(2) In interpreting this Act as applied by notification under clause (a) of sub-section (1) to mines, references to the owner of a factory shall be read as references to the owner or agent of a mine as defined in the Mines Act, 1952, and references to the occupier of a factory shall be read as references to the agent of a mine as defined in that Act; and in interpreting this Act as applied by notification under any of the clauses of sub-section (1), «property insurable under this Act» shall be interpreted as meaning all property to which the Scheme is by said notification declared to apply.

Power of Central Government to extend the Act to inland vessels.

18. (1) The Central Government may by notification in the Official Gazette, direct that the provisions of this Act and of the Scheme made thereunder shall ex-

tend and shall so far as they are applicable, apply in the same manner as they apply to the insurance of property insurable under this Act in relation to a factory, to the insurance against emergency risks of inland vessels (including the hull, machinery and fittings thereof, fuel carried therein, and stores carried therein for the use of the crew), being the property of any trading corporation or of any body of Port Trustees or Commissioners or of any other person specified in this behalf by the Central Government, where such vessels, fuel and stores are not for the time being plant or materials insurable in relation to a factory under this Act and the Scheme thereunder, or goods insurable under the Emergency Risks (Goods) Insurance Scheme made under the Emergency Risks (Goods) Insurance Act, 1962.

(2) In this section, unless the context otherwise requires,—

(a) «inland vessel» means a vessel not ordinarily plying outside the limits of the territorial waters surrounding India;

(b) «vessel» means a vessel the value of which including the hull, machinery and fittings but excluding cargo, fuel and stores carried for the use of the crew, as ascertained for the purpose of insurance under the Scheme, exceeds two thousand and five hundred rupees, propelled wholly or in part by steam, electrical or mechanical power, or adapted for towing by a vessel so propelled, and includes any such vessel while used as a place of habitation or for storage of goods but does not include a vessel of the type commonly called country craft.

(3) In the application of this Act and of the Scheme made thereunder to the insurance of inland vessels—

(a) the obligation imposed by sub-section (1) of section 5 on the owner of a factory shall, in the case of a trading corporation or body of Port Trustees or Commissioners or any other person whose inland vessels become insurable under this Act and the Scheme thereunder, be an obligation imposed on the trading corporation, body of Port Trustees or Commissioners or such other person to take out by such date as may be specified in this behalf by the Central Government by a notification in the Official Gazette, a policy of insurance against emergency risks issued in accordance with the Scheme whereby it is insured in respect of all inland vessels (including fuel carried by them and stores carried by them for the use of the crew) owned by it or him, as the case may be, for a sum not less than the insurable value of such vessels, fuel and stores; and this obligation shall in the case of a trading corporation in-

corporated outside India rest upon the manager of the principal place of business in India of the corporation;

(b) the prohibition contained in sub-section (1) of section 6 of this Act shall be deemed to include a prohibition of carrying on business of insuring inland vessels in India against emergency risks for insurance against provision is made under the Scheme;

(c) nothing in this Act shall prevent the fixing of a rate of premium under or the prescription for the time being of any period or periods for policies issued in connection with the insurance of inland vessels different from any rate fixed under or any periods prescribed for policies issued in connection with the insurance of property appertaining to a factory:

Provided that the rate of premium so fixed shall not exceed three per cent. per annum of the sum insured.

Power to
remove diffi-
culties.

19. If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to whether a person is insurable in respect of any property insurable under this Act, the Central Government may, by order, make such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the decision of the Central Government, in such cases, shall be final.

Notifications
under sec-
tion 15, 17
or 18 to be
laid before
Parliament.

20. A copy of every notification made by the Central Government under section 15, 17 or 18 shall be laid after it has been made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is laid, whichever period is less.

R. C. S. SARKAR,
Secy. to the Govt. of India.

MINISTRY OF FINANCE

(Department of Economic Affairs)

Notifications

New Delhi, the 26th December 1962

EMERGENCY RISKS (GOODS) INSURANCE SCHEME

S.O. 3945. — In exercise of the powers conferred by sub-section (1) of section 5 of the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962), the Central Government hereby puts into operation the following scheme.

1. Short title, extent and commencement. — (1) This scheme may be called the Emergency Risks (Goods) Insurance Scheme.

(2) It extends to the whole of India.

(3) It shall come into force on the first day of January, 1963.

2. Definitions. — In this scheme, unless the context otherwise requires —

- (i) "the Act" means the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962);
- (ii) "Government agent" means any person employed under section 6 to act as the agent of the Central Government for any of the purpose of the Act;
- (iii) "paragraph" means a paragraph of this scheme;
- (iv) "policy" means a policy of insurance issued under this scheme, and includes any supplementary policy;
- (v) "quarter" means a period of three months commencing on the first day of January, April, July or October;
- (vi) "section" means a section of the Act;
- (vii) words and expressions not defined herein have the meanings assigned to them in the Act.

3. Scope and extent of the scheme. — (1) The Central Government hereby undertakes in relation to persons carrying on business in India as sellers or suppliers of goods, the liability of insurance of such persons against emergency risks, to the extent provided by the Act, in respect of goods insurable under the Act which are from time to time owned or deemed to be owned by such persons in the course of such business.

(2) The Central Government also hereby undertakes, —

- (a) in relation to any person carrying on business in India as a seller or supplier of goods, the liability of insuring that person against emergency risks to the extent provided by the Act, in respect of goods insurable under the Act which are not owned by him or deemed to be owned by him but in which he has an interest arising in the course of that business;
- (b) in relation to a person carrying on any business in India, the liability of insuring that person against emergency risks to the extent provided by the Act, —
 - (i) in respect of any goods situated in India which are in his possession, otherwise than under a hire purchase agreement, for the purposes of that business, or
 - (ii) in respect of any goods situated in India which are subject to a mortgage, pledge or charge in his favour in the course of his business, being in either case goods which are not owned by him but which are insurable under the Act in relation to the person by whom they are owned;
- (c) in relation to a person carrying on any business in India, the liability of insuring that person against emergency risks to the extent provided by Act, in respect of any goods situated in India, which, having been sold in India, for export from India, are in his possession for the purpose of such export and are goods which were prior to such sale insurable under the Act in relation to the person by whom they were then owned; and

- (d) in relation to any person carrying on any business in India as a seller or supplier of goods, the liability of insuring that person against emergency risks to the extent provided by the Act in respect of goods imported into India through any port in India, while such goods are situated at such port or are in transit to a place in India.

4. Compulsory insurance.—(1) Every person carrying on business in India as a seller or supplier of goods which have not been exempted under sub-section (2) of section 3 shall take out a policy of insurance against emergency risks, to the extent provided by the Act, in respect of goods insurable under the Act which are from time to time owned or deemed to be owned by such person in the course of such business:

Provided that the taking out of such an insurance policy shall not be necessary if the insurable value of the said goods in any one and the same Presidency town or district is equivalent to or less than the sum of thirty thousand rupees:

Provided further that nothing in this scheme shall be deemed to require any person who is compulsorily liable to insure any goods in any Presidency town or district under this scheme (on the ground that their value in that Presidency town or district exceeds thirty thousand rupees) to insure any other goods situated in any other Presidency town or district compulsorily under this scheme, unless the value of the goods situated in the latter Presidency town or district, as the case may be exceeds thirty thousand rupees.

(2) Where, as a result of the turn over of, or any change in, the stock of goods owned or deemed to be owned by a person who has taken out a policy of insurance against emergency risks in respect of such stock of goods, there is a net increase, after the issue of the policy of insurance, in the insurable value of such stock of goods, such person shall take out a further policy of insurance against emergency risks to the extent provided by the Act in respect of such net increase in the insurable value of such stock of goods:

Provided that a person who owns or is deemed to own insurable goods, the stock of which is likely to fluctuate, may, instead of taking out a policy of insurance for the actual value of the insurable goods existing at the time when the policy of insurance is taken out, take out a policy of insurance under this scheme for the maximum amount beyond which the insurable value of the stock of insurable goods is not likely to fluctuate.

5. Voluntary insurance.—(1) Any person who carries on business as seller or supplier of goods insurance under the Act and which are owned by him in the course of such business may, at his option, take out a policy of insurance in respect of such goods against emergency risks, notwithstanding the fact that the value of such goods in one and the same Presidency town or district does not exceed thirty thousand rupees.

(2) Where any voluntary insurance of goods is made under this paragraph, liability of the Central Government as insurer shall not extend to more than eighty per cent of the insurable value of the goods insured.

6. Goods in transit.—For the purposes of this scheme, goods in transit shall be deemed, throughout the period commencing on the date on which they are consigned to any carrier and ending on the date on which they are delivered to the consignee, to be situated in the Presidency town or district in which the place of consignment is located.

7. A single policy for all goods in a Presidency town or district.—Every person insuring goods against emergency risks under this scheme shall apply for insurance under a single policy covering all insurable goods which may at the time of the application be owned by him within one and the same Presidency town or district and which are not at the time of such application covered by any other policy insuring them against emergency risks under this scheme, but any such person insuring any goods in more than one Presidency town or district may apply for a single policy of insurance covering all his goods in all the Presidency towns or districts, if he indicates in that application the insurable value of the goods situated in each Presidency town or district separately.

8. Method of Application.—(1) Every application for insurance under this scheme shall be in accordance with the form set out in the First Schedule and shall be made to the Government agent or to such officer of the Government agent as may be authorised by that agent in this behalf.

(2) Every such application shall be accompanied by a treasury chalan evidencing payment of the requisite premium into a Government Treasury under the head LXIA — Receipts connected with the National Emergency, 1962 — Central — Insurance premiums under the Emergency Risks (Goods) Insurance Scheme.

9. Mode of valuation of insurable property.—The insurable value of goods for the purposes of this scheme shall be arrived at on the basis of the prices prevailing at the time that the policy of insurance covering the goods takes effect or is intended to take effect and shall, whenever any such policy is replaced or renewed, be arrived at on the basis of the prices prevailing at the time that the policy is so replaced or renewed.

10. Rate of Premium.—(1) The premium payable under any policy of insurance issued in respect of the quarter ending on the 31st March, 1963, shall be payable at the rate of fifteen naye paise for every hundred rupees or any part thereof, of the sum insured.

(2) The amount of any premium payable under sub-paragraph (1) shall be rounded off to the nearest rupee and shall be payable in one lump sum in respect of the entire quarter for which the policy is or is continued in force, provided that if any goods become insurable or are insured under this scheme after the commencement of a quarter, the premium shall be payable in one lump sum, which shall be equivalent to the amount payable in respect of goods insurable during the entire quarter reduced by an amount which bears to the first mentioned amount the same proportion as the number of completed months in that quarter before the goods become insurable or are insured bears to three, the actual amount due in accordance with this provision being rounded off to the nearest rupee.

11. Issue of policy and verification of previous policies. — If an application has been correctly made out in the prescribed form, accompanied by a treasury chalan evidencing payment of the premium into a treasury under the head of account specified in sub-paragraph (2) of paragraph 8 the Government agent shall issue a policy of insurance as soon as possible after the receipt of such an application.

(2) If no chalan accompanies an application, or if the chalan is not in order, the application shall be returned to the applicant for re-submission along with the required chalan.

(3) If the chalan accompanying an application is in order, but the application for insurance is not in accordance with the form set out in the First Schedule, the chalan may be retained by the Government agent and the application returned to the applicant for re-submission after being correctly made out.

(4) If the chalan accompanying an application form is for an amount which falls short of the premium due on the insurable value of the goods, a policy for such proportion of the insurable value as the amount paid under the chalan bears to the premium due shall be issued, and the applicant shall be asked to make a further application in respect of the balance of the insurable value of property which may remain uncovered.

(5) Notwithstanding anything contained in the foregoing provisions of this paragraph, if any applicant has taken out an insurance in respect of the same goods or any part thereof against fire, marine, accident or export credit insurance risks with any insurer other than the Government agent himself, the Government agent may, in his discretion, postpone the issue of the policy until enquiries have been made from that insurer.

12. Form and duration of policy. — Every policy of insurance issued under the scheme shall be in the form set out in the second Schedule, and shall be in respect of the period ending on the last day of the quarter for which the policy is issued.

13. Date of effect of policies. — (1) Where the policy of insurance is in relation to goods in respect of which the person who is the owner or is deemed to be the owner thereof is compelled to take out a policy of insurance in accordance with the provisions of paragraph 4, the policy shall be issued so as to take effect from the date on which he becomes so liable, if the premium is paid in advance or within seven days of the date on which he became so liable, or from the date of payment of the premium, if the premium is paid after the expiry of seven days from the date on which he becomes so liable.

Provided that in the case of the quarter ending on the 31st March 1963, the Central Government may extend the period of seven days aforesaid to any period not exceeding thirty days.

(2) Where the policy of insurance is in relation to goods which are not compulsorily insurable, but may at the option of the person who is the owner or is deemed to be the owner thereof be insured under paragraph 5, the policy shall be issued so as to take effect from the date of commencement of the policy as stated in the application, if the premium is paid within seven days of such commencement, or from the date of payment of the premium, if the premium is paid after the expiry of seven days from the date of such commencement.

(3) For the purposes of sub-paragraph (1) any person who is the owner or is deemed to be the owner of goods which are insurable under this scheme shall be required to indicate in his application the date on which he becomes or has become so liable.

14. Failure to pay premium and evasion. — (1) Where any person has failed to pay the premium due from him or to insure as, or to the full amount, required by the Act and has thereby evaded the payment of any money which he would have had to pay but for such failure, the amount evaded shall be determined in accordance with the Third Schedule.

(2) Every person against whom a determination has been made in pursuance of sub-paragraph (1) may, within the period laid down in the Third Schedule, appeal to the Central Government, whose decision shall be final.

(3) Where the amount determined in accordance with the provisions of sub-paragraph (1) or sub-paragraph (2) is fully recovered, the Government agent shall, as soon as possible after such recovery, send the requisite application forms to the defaulter for completion and return, and a policy or supplementary policy of insurance, according as the recovery is in respect of non-insurance or under-insurance, shall be issued by the Government agent on the receipt of the applications correctly filled in, the said policy or supplementary policy being made out so as to take effect from the date on which the amount was fully recovered.

15. Record of policies to be maintained at places where goods are situated. — At every place where goods which are insurable or are insured under this scheme are stored or held, a register shall be maintained indicating the number and date of the policy issued under this scheme covering the said goods, the place at which and the office of the Government agent at which the policy was issued, the insurable value of the goods as shown in the application on the basis of which the policy was issued or as otherwise on record with the office of the Government agent, and the period of currency of the insurance policy; and the said register shall be available for inspection by any officer authorised to obtain information or to take any other action under section 8.

16. Loss of Policy. — In the event of the loss of a policy, a duplicate policy shall not be issued, but if it is satisfactorily proved that a policy has been issued, the absence of that policy shall not be a bar to any claim thereunder.

17. Overlapping policies, cancellation and refund. — (1) Where it is established to the satisfaction of the Central Government that insurance under the scheme has been taken out separately by two or more persons in respect of the same goods, the policy taken out by any such person may, on an application made by him, and after such enquiry as the Central Government may think fit, be cancelled, and a refund of premium may be allowed to him, unless he has recovered the premium from any other person, in which case the refund may be made to that person.

(2) Notwithstanding anything contained in this scheme, where a policy has been taken out in respect of any goods insurable under this scheme and the said goods are subsequently exempted under sub-section (2) of section 3, or destroyed otherwise than

by any action or measure comprised in the expression «emergency risks», the policy shall be cancelled with effect from the date on which the exemption takes effect or, as the case may be, the goods are destroyed as aforesaid, and thereupon —

- (a) no further premium shall be payable under the policy; and
- (b) out of the amount of the premium collected immediately before the cancellation of the policy in respect of the quarter in which the policy is cancelled, a refund shall be made in the proportion which the number of complete months for which the policy is cancelled bears to three.

18. Share of risk to be borne by the insured person. — (1) The insured person shall bear in respect of each claim twenty per cent of the loss or damage.

(2) If at the time of the happening of any loss or damage, the total value of the goods insured shall exceed the sum insured under the policy, the insured person shall be considered as being his own insurer for the excess as well as for twenty per cent, of the sum insured, for the purpose of his bearing a rateable proportion of the loss.

19. Statement of Claims, verification and payment. — (1) All claims shall be submitted in writing in the form given in the Fourth Schedule to the Government agent within the time specified in condition 7 of the conditions set forth in the Second Schedule.

(2) The loss as a result of emergency risks in the value of property insured under this scheme shall be computed on the basis of the value at the prices prevailing at the time that the policy of insurance takes or has taken effect after making due allowance for depreciation up to the time of the occurrence of the loss or damage, or on the basis of the value at the prices prevailing at the time at which the loss occurs or has occurred, whichever may be less.

(3) On receipt of the claim, the Government agent shall have the claim verified, and the loss or damage, if any, assessed by a person who is for the time being a loss assessor recognised by the Central Government in this behalf, or if the Central Government so directs, by such person or persons as may be specially deputed by it for this purposes.

(4) As soon as the loss assessor has verified the claim and assessed the loss or damage, if any, he shall make a report thereon to the Government Agent, who shall after such further verification as he thinks fit to make, forward the report, with his remarks and recommendation to the Government of India in the Ministry of Finance (Department of Economic Affairs).

(5) If the claim is proved to the satisfaction of the Central Government, a payment order in favour of the claimant will be issued by the Central Government as soon as possible through the Government agent in full settlement of the claim.

(6) No interest shall be due in respect of any payment under this scheme which remains unpaid for any reason.

(7) On receipt of the payment, the claimant shall furnish to the Government agent a receipt in the form set out in the Fifth Schedule.

20. Policies or benefits not assignable or transferable. — A policy issued under this scheme or a claim under any such policy shall not be assignable

or transferable to any other person and no notice of any trust in respect of any such policy or claim shall be receivable by the Government agent or by the Central Government.

21. Provision for safeguarding of property insurable under the scheme. — (1) A policy issued under this scheme may provide for safeguarding any property insurable under this scheme against loss or damage as a result of emergency risks or for minimising any such loss or damage.

(2) Any condition imposed by the policy may require the person who is the owner or who is deemed to be the owner of the goods, to take such reasonable precautions in regard to the storage of the goods or the packing or transport thereof while they are in transit as may be necessary in order to eliminate or reduce the risk of loss or damage.

22. Persons authorised for certain purposes of the Act. — Any person may be authorised by the Central Government under section 11 to obtain any information and to do any other thing as provided for in the said section, and every person who is liable to take out, or who has taken out, a policy of insurance under this scheme shall at all times provide and cause to be provided all reasonable facilities to the person so authorised, for enabling him to discharge his duties in pursuance of or in relation to this scheme.

23. Publication of accounts. — An account of all sums received into and paid out of the Emergency Risks (Goods) Insurance Fund shall be prepared in the form set forth in the Sixth Schedule and shall be published annually.

24. Interpretation. — If any doubt arises in regard to the interpretation of any provisions of this scheme, the matter shall be referred to the Central Government whose decision thereon shall be final.

FIRST SCHEDULE

(See Paragraph 8)

Form of application

Government of India

EMERGENCY RISKS (GOODS) INSURANCE

ACT, 1962 (62 of 1962)

Application for insurance of goods insurable under the Act

No.

1. Applicant's name.
2. Address.
3. Business.
4. Goods to be insured.
5. Situation of goods, stating separately the insurable value of goods situated in each Presidency town or district.
6. Estimated full value (which is the sum for which insurance must be effected) Rs.
7. (a) Date on which the goods became compulsorily insurable under the Act.
(b) Where insurance is optional, the date insurance is to commence.
8. Are the goods insured against fire, marine, accident or export credit insurance risks?
If so, state (a) Name of insurer.
(b) Policy No.
(c) Sum insured Rs.
9. Has any other person any insurable interest in the goods to be insured? If so, give particulars.

Note: — A policy once issued cannot be assigned or transferred nor is any part of the premium returnable except as provided in section 13 or under paragraph 17 of the Emergency Risks (Goods) Insurance Scheme.

10. If you do not own the goods within the meaning of section 4, the following should be answered. —
- (i) Name and address of the owner.
 - (ii) What is the nature of your interest in the goods to be insured ?
 - (iii) If you are in possession of the goods, in the course, and for the purpose, of your business, state the purpose for which the goods are in your possession.
 - (iv) Are you aware whether the owner has also effected or applied for insurance on the goods to be insured ?

11. If you have already taken out one or more policies under the scheme for this quarter, please fill up this portion of the application, otherwise cross it out.

The following are the particulars of policies already issued to me/us for the same quarter:

No./Nos.	Issued by (local office)	Date	Sum Insured
----------	-----------------------------	------	----------------

I/We warrant that the above statements and particulars are true and I/We request you to effect Emergency Risks (Goods) Insurance on my/our behalf with the Government of India in terms of the standard policy which I/we agree to accept.

I/We hereby agree that this application shall be the basis of the contract between the President and myself/ourselves.

I/We enclose chalan dated for Rs. paid into the

*Treasury
*Reserve Bank of India
*State Bank of India
at

Signature of Applicant.

Date.

(*Strike out whichever is inapplicable)

ACKNOWLEDGEMENT

Received from
application number dated
along with Chalan dated
for Rs. paid into the *Treasury.

*Reserve Bank of India
*State Bank of India:

at
Date

Signature of
authorised representative
of Government agent.

(*Strike out whichever is inapplicable)

SECOND SCHEDULE

(See Paragraph 12)

Government of India

EMERGENCY RISKS (GOODS) INSURANCE
ACT, 1962 (62 of 1962)

Serial No.

Policy No. _____

Supplementary to Policy No. _____

Policy of Insurance in respect of goods insurable
under the Act.

This Policy and the Specification hereto (which forms an integral part of this Policy) shall be read together as one contract, and the words and expressions to which specific meanings have been attached in the Specification shall bear those meanings wherever they may appear.

THE SPECIFICATION

The President of India

The President
The Government agent
The Insured
Address
The Insured's business
Sum for which insured Rs.
Period of insurance: From the
..... day of 19
to the day
of 19 .

The Premium: Rs.
Paid in to the Treasury.
Reserve Bank of India.
State Bank of India.

at on the
day of 19.....

Whereas the Insured has made and forwarded to the Government Agent a signed application for insurance which application he has agreed shall be the basis of this Policy and has paid the amount of premium named above:

Now this Policy witnesseth that in consideration of the Insured paying to the President the said premium, the President agrees (subject to the conditions contained herein, which conditions shall, so far as the nature of them respectively will permit, be deemed to be conditions precedent to the right of the Insured to recover hereunder) that if during the period of insurance stated above the goods insured or any part of such goods shall suffer any loss or damage, being loss or damage caused by any act comprised in the expressions «emergency risks» as defined for the time being in the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962), hereinafter referred to as «the Act», the President will where the loss or damage is suffered whilst the goods affected are situated in India, or are in transit from one place in India to another place in India, indemnify the Insured against diminution in value caused by that loss or damage to the extent provided by or under the Act.

In witness whereof I, being duly authorised in that behalf, have hereto set my hand for and on behalf of the President.

Dated:
the 19 .

It is hereby agreed and declared that shall, to the extent of their interest in the goods insured, be entitled jointly with the Insured to the rights hereby granted to the Insured, but not so as to grant to them any further or greater rights than those of the Insured under this Policy.

Signed for and on behalf of the President this day of 19 .

Note.— This policy cannot be assigned or transferred and no premium is returnable except as provided under section 13 of the Act or under paragraph 17 of the Emergency Risks (Goods) Insurance Scheme.

CONDITIONS

The President shall be under no liability under any policy of insurance to which these conditions apply (hereinafter referred to as «the policy») if and in so far as the Insured is not entitled to be insured for the sum thereby insured in respect of the goods insured under the Act.

2. The liability of the President under the policy shall not exceed in the aggregate eighty per cent of the sum thereby insured, and after the happening of any loss or damage, the sum insured by the policy shall be deemed to be reduced by the amount of that loss or damage, and thereupon the liability of the President shall be limited to eighty per cent of such reduced sum.

3. The Insured shall bear, in respect of each claim, twenty per cent of the loss or damage.

4. If at the time of the happening of any loss or damage the total value of the goods insured shall exceed the sum insured under the policy, the Insured shall be considered as being his own insurer for the excess as well as for twenty per cent of the sum insured, for the purpose of his bearing a rateable proportion of the loss.

5. If at the time of the happening of any loss or damage there be any other insurance effected by or on behalf of the Insured covering any of the goods suffering that loss or da-

mage against emergency risks, the liability of the President under the policy shall be limited to eighty per cent of its rateable proportion of such loss or damage.

6. The Insured shall at the request and expense of the President do and concur in doing and permit to be done all such acts and things as may be reasonably required by the President for the purpose of enforcing any rights and remedies to which the President is or would become entitled or subrogated upon paying for or making good any damage, whether such acts and things shall be required before or after that indemnification by the President.

7. On the happening of any loss or damage, the Insured shall forthwith give notice thereof in writing to the Government agent, and shall within ten days after such loss or damage, or such further time as the Government agent may in writing allow, at his own expense deliver to the Government agent a claim in writing containing at particular an account as may be reasonably practicable of the several articles or portions of goods suffering that loss or damage and of the amount of such loss or damage, having regard to their value at the time of the loss or damage, together with details of the interest of any person other than the Insured in the goods insured and details of any other insurances on the goods insured. The Insured shall also give to the Government agent all such proofs and information with respect to the claim as may reasonably be required, together with (if demanded) a declaration verified by an affidavit, of the truth of the claim and of any matters connected therewith. No claim under the policy shall be payable, unless the terms of this condition have been complied with.

8. If the claim be in any respect fraudulent, or if any fraudulent means or devices be used by the Insured or anyone acting on his behalf to obtain any benefit under this policy, or if any loss or damage be occasioned by the wilful act or with the connivance of the Insured, all benefits under the policy shall be forfeited:

Provided that the benefits under the policy shall not be forfeited even though the loss or damage is occasioned by the wilful act and with the connivance of the Insured, where the wilful act is done under orders of proper authority or where the Insured permits certain measures to be taken under orders of proper authority, and if any question arises as to whether any act of the kind mentioned above has been taken under proper authority, the Central Government shall decide the matter and such decision shall be final and fully binding on the Insured.

9. On the happening of any loss or damage, in respect of which a claim is or may be made under the policy, the Government agent and every person authorised by the Government agent may, without thereby incurring any liability, and without diminishing the right of the President to rely upon any conditions of the policy, enter, take or keep possession of the building or premises where the loss or damage has happened, and may take possession or require to be delivered to them any of the goods insured, and may keep possession of and deal with such goods for all reasonable purposes and in any reasonable manner. This condition shall be evidence of the leave and licence of the insured to the President so to do. If the Insured or any one acting on his behalf shall not comply with the requirements of the President, or shall hinder or obstruct the President or any person acting on his behalf in doing any of the above mentioned acts, then all benefits under this policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to the President whether taken possession of by the President or not.

10. No refund or premium shall be allowed in respect of the policy, except as provided by or under the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962).

11. The policy shall not be assignable or transferable.

12. The Insured shall at all times take due precautions for the safety of the goods insured having regard to the nature thereof, and in particular, if at any time any goods insured sustain damage due to emergency risks, the Insured shall take all reasonable steps to preserve the goods insured from damage or further damage, as the case may be.

13. If in his application for the insurance effected by the policy, the Insured shall have intentionally made a material misstatement as to the value of the goods insured, all benefits under the policy shall be forfeited.

14. If the Insured shall fail to comply with any instruction made or issued under the authority of the Central Govern-

ment for safeguarding the goods against loss or damage from emergency risks, all benefits under the policy shall be forfeited.

15. The following condition may be included in the policy at the request of the insured:—

"It is hereby agreed and declared that shall, to the extent of their interest in the goods insured, be entitled jointly with the Insured to the rights hereby granted to the Insured, but not so as to grant to them any further or greater rights than those of the Insured under this Policy".

THIRD SCHEDULE

(See Paragraph 14)

Where any officer authorised in this behalf by the Central Government has reason to believe that any person who is the owner or is deemed to be the owner of any goods insurable under the Act situated within the area over which he is authorised to act has failed to insure as, or to the full amount, required by the Act or the scheme or having applied for a policy of insurance under the Act or the scheme has failed to pay any premium payable under the Act within seven days of the date of commencement of the policy as stated in the application, and has thereby evaded payment by way of premium of any money which he would had to pay but for such failure, the officer may serve on such person a notice requiring him (i) to show cause on a date and at the time and place specified in this behalf why he failed to insure the goods as, or to the full amount, required by the Act, and further (ii) to produce before the officer on such date any document or other evidence in support of his case.

2. Upon cause being shown and after giving the defaulter an opportunity of being heard in support of the cause, the officer shall assess the insurable value of the goods and shall, determine on the basis of such assessment the amount of premium, if any, payment of which has been evaded by the defaulter. In doing so, the officer shall take into consideration such information as he may have received in accordance with Section 11 after giving the defaulter an opportunity to explain the same.

3. If a person who is owner or is deemed to be the owner of any goods fails to show cause against a notice issued under paragraph 1 of this Schedule, the officer shall assess the insurable value of the goods on the strength of such materials as may be available to him and shall determine on the basis of such assessment the amount of premium payment of which has been evaded by the defaulter.

4. When any sum has been determined in accordance with paragraph 2 or paragraph 3 of this Schedule the officer shall send to the defaulter a copy of his recorded assessment and determination, duly certified by him, and serve on him a notice of demand specifying (i) the amount payable by him, (ii) the date within which it shall be paid and (iii) the Treasury into which it shall be paid.

5. Any person against whom an assessment and a determination have been made in accordance with paragraph 2 or paragraph 3 of this Schedule may appeal to the Government of India in the Ministry of Finance, Department of Economic Affairs within thirty days of the date of receipt of the notice of demand.

6. Where an assessment and determination have been made against more persons than one in respect of the same goods every person preferring an appeal shall do so separately and in his own name.

7. An appeal under paragraphs 5 or 6 above shall contain all material statements and arguments relied on by the appellant, shall be accompanied by a copy of the notice of demand served upon the appellant, and shall be preferred through the authority against whose order the appeal is preferred.

8. The appellate authority shall consider

- (a) whether the facts on which the notice of demand was based have been established, and
- (b) whether the sum determined as payable is excessive, adequate or inadequate,

and after such consideration shall pass such order as it thinks proper. But no order enhancing the amount determined as payable by the appellant shall be passed without communicating to him the grounds on which such order is proposed to be passed and giving him an opportunity to show cause against the same.

9. The appellant shall have no right to appear in person or to be represented before the appellate authority.

FOURTH SCHEDULE
(See Paragraph 19)

Government of India

EMERGENCY RISKS (GOODS) INSURANCE
ACT, 1962 (62 of 1962)

STATEMENT OF CLAIMS UNDER THE ACT.
Through

Government Agent,
at

I/We of (address) do hereby solemnly declare that on or about O' clock A.M./P.M. Indian Standard Time on the day of 19 , goods which were insured under the policy or policies detailed in Schedule A annexed hereto, were destroyed or damaged by an act comprised in the expression "emergency risks" as defined by the Emergency Risks (Goods) Insurance Act, 1962, (62 of 1962). The actual details of the act (manner in which the damage occurred) are given below:—
.....
.....

I/We further solemnly declare that at the time of the said loss or damage the actual value of all goods as described in the said policy or policies amounted to Rs. as more particularly set forth in the annexed Schedule B, and that apart from myself/ourselves no person other than has any interest in the said goods.

I/We therefore claim from the Government of India the sum of Rs. as detailed in Schedule C annexed hereto and I/We solemnly declare that this Statement of Claims is a true and accurate statement of the loss sustained by me/us, without inclusion of profit of any kind.

Declared before me Signed
this day of 19 .
and identified by who is personally known to me

Court Seal.
Magistrate.

SCHEDULE A

Statement of Policies in force on the date of loss or damage

(1)	(2)	(3)	(4)
Policy Number	Date of Issue	Sum Insured	The insured goods as described in Policy

SCHEDULE B

Statement of all goods insured under the Act

(1)	(2)	(3)
Description of goods	Sound value of goods	Location of goods

SCHEDULE C
Statement of Loss or damage

(1)	(2)	(3)	(4)	(5)	(6)
Description of goods damage or destroyed.	Quantity	Sound value	Value of Salvage.	Actual Loss	Amount to be paid by the Central Government.

ASSESSOR'S CERTIFICATE

I/We being Assessor/s duly appointed under paragraph 19(3) of the Emergency Risks (Goods) Insurance Scheme certify that from a careful examination carried out by me/us of the scene of the loss or damage and from the production of books, documents, invoices and other evidence have satisfied myself/ourselves that the goods claimed were fully insured at the time of the loss or damage, and that the statement of claims detailed herein, (*and in our report attached) is a true and proper statement of the actual loss sustained by the Insured as the direct result of emergency risks only.

Time taken on assessment
Fee Rs.

Signature of Loss Assessor
Address
Date

RECOMMENDATION OF GOVERNMENT AGENT.

We certify that the claim detailed in this Statement of Claims was received by us in accordance with condition 7 of the Insurance Policy, that the Statement of insurances in force contained in Schedule A is a correct statement, that we have investigated the claimant's title, and we recommend that (i) (*except as stated in the attached report) the sum of Rupees be paid in full and final settlement of the loss, (ii) and (iii) the sum of Rupees be paid to the Assessor in respect of his fee and expenses.

Signature of Government Agent
Date

GOVERNMENT ORDERS FOR DISPOSAL.

*Delete and initial deletion if no separate report.

FIFTH SCHEDULE
(See Paragraph 19)

Government of India

EMERGENCY RISKS (GOODS) INSURANCE
ACT, 1962 (62 of 1962)

Receipts of Claims

Loss No.

Received this day of 19 , from the Government of India the sum of Rupees in full discharge of all claims upon them under the Policy/ /Policies No./Nos. issued under the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962), for loss or damage, arising from Emergency Risks as defined in the said Act, which occurred on the day of 19 , in consequence of which the amount insured by this Policy is reduced to the extent of Rs.

Signature of Claimant		Stamp	
SIXTH SCHEDULE			
(See Paragraph 23)			
Account of sums received into and paid out of the <i>Emergency Risks (Goods) Insurance Fund</i> during the year ending 19 ..			
Receipts.		Expenditure.	
Amount	Progress of receipts upto the end of	Amount	Progress of expenditure upto the end of
Rs. nP.	Rs. nP.	Rs. nP.	Rs. nP.
I. Insurance Premium		1. Remuneration and expenses of Government Agent, and cost of forms.	
2. Advances from the Consolidated Fund of India under section 10 (3)...		2. Payments of liabilities under the Emergency Risks (Goods) Insurance Scheme and remunerations & expenses of Loss Assessors appointed under the Scheme.	
		3. Refunds of premium under section 13 or under paragraph 17 of the Scheme.	
		4. Repayments of advances made under section 10 (3).	
		5. Other Miscellaneous expenditure, (showing details if necessary).	
3. Miscellaneous		6. Sums disposed of in accordance with section 10 (4).	
Total		Total	

[F. No. 112(8)-INS/I/62].

S.O. 3953.— In exercise of the powers conferred by sub-section (2) of section 3 of the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962), the Central Government hereby directs that the goods of the description specified in the Schedule annexed hereto shall, notwithstanding anything contained in (i) section 3, be deemed to be goods not insurable under the said Act.

Provided that nothing in the Schedule shall, in relation to any person carrying on a business in the course of which he constructs or repairs ships or propelling machinery for ships, have effect in relation to any goods appropriated by him for the construction or repair of any particular ship or part of such ship.

SCHEDULE

- Goods forming the subject of a hire purchase agreement or agreements, wherein the hirer is a person not carrying on the business of selling, letting or hiring goods of the description so hired and wherein provision is made for payment spread over a period of not less than six months.
- Coal (including anthracite and cannel coal) and coke, lignite whether briquetted or not, and manufactured fuel of which coal coke or lignite is the chief constituent.

- Iron ore.
- Manganese ore of all descriptions except manganese ores used in the manufacture of chemicals, electric batteries, manganese metal, glass or ceramics.
- Chrome ore.
- Ores, concentrates, drosses, and residues for the smelting of aluminium, antimony, copper, lead, nickel, zinc, spelter and tin.
- Ores, concentrates, mattes, drosses and residues of gold, silver, platinum, palladium, iridium, rhodium, osmium and ruthenium.
- Non-metalliferous mining and quarry products, unmanufactured, other than mica and salt (sodium chloride).
- China clay.
- Crude asbestos.
- Cement including asbestos cement and cement clinker.
- Lime.
- Bricks and tiles of brick-earth and clay, and refractory bricks, blocks and tiles.
- Sheets, pipes and other building materials made partly of cement and partly of asbestos.
- Slates for roofing.
- Granite blocks.
- The following manufactures of stone, namely.
 - payment kerbs and setts;
 - channels;
 - slabs and flags; and
 - manufactured stone for building purposes.
- Concrete products of all descriptions.
- Low tension insulators suitable for pressures up to six hundred and fifty volts.
- Heavy stoneware jars and pipes.
- Cinder, scale and slag.
- Recovered sewage grease and sewage sludge.
- Scrap of the following metals and alloys thereof, namely, aluminium, antimony, copper, lead, nickel, tin, zinc and spelter.
- Iron and steel scrap.
- Spent oxide of iron.
- Lead in white lead stacks and chambers.
- Nickel, unwrought, in all forms.
- Copper, unwrought, whether refined or not, in ingots, bars, billets, wirebars, blocks, slabs, cakes, cathodes, anodes and rods, and copper shot.
- Aluminium, antimony, lead, nickel, tin, zinc spelter unwrought, in ingots, pigs, blocks, cakes, bars and slabs.
- Gold, silver, platinum, palladium, iridium, rhodium, osmium and ruthenium and alloys thereof in grains, ingots, bars, wires or powder.
- Alloys of aluminium, antimony, copper, lead, nickel, tin, zinc or spelter unwrought, in ingots, pigs, blocks, cakes, bars and slabs.
- Iron and steel of the following descriptions, namely:—
 - pig iron;
 - ferro alloys other than in powder form;
 - ingots;
 - billets, blooms and slabs;
 - tinplate and sheet bars;
 - plates, medium plates, whether fabricated or not; sheets, coated and uncoated;
 - angles, channels, tees, joists, piling sections and other sectional material, whether fabricated or not;
 - rounds, rods, wire rods, squares, hexagons, flats and all other sections and shapes, other than bright;
 - rails, sleepers fishplates and sole plates; Tinplates,terne plates, black plates and silver finished plates;
 - hoops and strips, hot or cold rolled, other than bright;
 - tyres, axles and wheels, other than those held for the assembly of bicycles and motor vehicles or spare parts thereof;
 - castings, blocks for forgings, blocks for pressings fogings and stampings (except where wholly or partly machined) and pressings;
 - colliery arches and pit props;

- (n) pipes, coated and uncoated, and hot finished tubes;
- (o) assemblies of plates and sectional materials as component parts of structures.

33. Aluminium, brass, copper and nickel-silver and yellow metal in sheets and circles.

34. Gold, silver, platinum, palladium, iridium, rhodium, osmium and ruthenium, and alloys thereof, in sheets or tubes, and ply-metal in the form of sheets, tubes or wires of which any of the said metals or any thereof is a component.

35. Natural pearls, mounted or unmounted.

36. Other precious and semi-precious stones, unmounted, cut or uncut.

37. Gem-set jewellery, that is to say, precious and semi-precious stones mounted in gold or platinum, palladium, iridium, rhodium, osmium and ruthenium.

38. All other jewellery or other articles made, except for fittings and embellishments, of gold, silver, platinum, palladium, iridium, rhodium, osmium and ruthenium and alloys thereof.

39. Jewelled watch cases.

40. Gold sovereigns and half sovereigns.

41. Unmounted diamonds, whether rough or polished, and industrial diamonds, mounted or unmounted.

42. Paintings in oil or water colours, pencil, ink and charcoal drawings pastels on canvas, paper boards or paper, and hand-printed impressions taken from blocks, plates or like material, whether framed or unframed and sculpture, whether in the round, in relief or in intaglio.

43. Postage stamps intended for collection purposes denoting a postal service or services, being marks or devices embossed or impressed or comprised in a label.

44. Objects of art or craftsmanship being not less than one hundred years old.

45. The following compounds of radium of a concentration exceeding ten per cent, namely, bromide, carbonate, chloride and sulphate.

46. Printing machinery of the following descriptions, namely, type-setting, letter press (including rotary and flat bed), lithographic, photogravure and stereotyping.

47. Printed books being not less than fifty years old and manuscripts.

48. Slates for damp-courses and slate slabs.

49. Gas of the kind supplied by public utility undertakings, other gases sold as fuel, and water and electricity.

50. Any goods situated at a port or on any vessel in India which while so situated are covered against emergency risks by a marine insurance policy and any goods in respect of which a policy of insurance is in force whereby the owner of the goods for the time being is insured in respect thereof against emergency risks, provided that if the value of the goods for the time being exceeds that for which they are covered against emergency risks by the policy, the goods shall be insured under the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962) for such excess.

[Fo. No. 112(16)-INS/I/62.]

A. BAKSI, Jt. Secy.

New Delhi, the 26th December 1962

EMERGENCY RISKS (FATORIES) INSURANCE SCHEME

S.O. 3946.—In exercise of the powers conferred by sub-section (1) of section 3 of the Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962) the Central Government hereby puts into operation the following scheme.

1. Short title, extent and commencement.—(1) This scheme may be called the Emergency Risks (Factories) Insurance Scheme.

(2) It extends to the whole of India.

(3) It shall come into force on the first day of January 1963.

2. Definitions.—In this scheme, unless the context otherwise requires:—

- (i) "the Act" means the Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962);
- (ii) "Government agent" means any person employed under section 4 to act as the agent of the Central Government for any of the purposes of the Act;
- (iii) "paragraph" means a paragraph of this scheme;
- (iv) "policy" means a policy of insurance issued under this scheme, and includes any supplementary policy;
- (v) "section" means a section of the Act;
- (vi) words and expressions not defined herein have the meanings assigned to them in the Act.

3. Scope and extent of the scheme.—(1) The Central Government hereby undertakes in relation to factories the liability of insuring such factories against emergency risks to the extent provided by the Act.

(2) The Central Government also hereby undertakes in relation to any person in India the liability of insuring such person against emergency risks in respect of any property insurable under the Act which is not owned by him but in which he has an interest, up to the extent of such interest.

4. Insurance of completed factories.—(1) Every owner of a factory in existence at the commencement of this scheme shall, within the period specified in the notification made under sub-section (1) of section 5, take out a policy of insurance against emergency risks in accordance with this Scheme.

(2) Subject to the provisions of paragraph 5, every owner of premises becoming a factory or property insurable under the Act after the date specified in the notification referred to in sub-paragraph (1) shall, before the commencement of the quarter next following that in which the premises become a factory or the property becomes insurable under the Act, take out a policy of insurance against emergency risks in accordance with this scheme.

(3) Every owner of a factory who is required by the Central Government to reconstruct the factory which has suffered damage shall, before the commencement of the quarter next following that in which the reconstruction of the factory is completed, take out a policy of insurance against emergency risks in accordance with this scheme.

(4) Where the owner of the factory is not the occupier thereof, the occupier of the factory shall, unless the owner has already taken out a policy of insurance, himself take out the policy and when such a policy is taken out, the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid by him as premiums on the policy.

5. Works in course of construction.—(1) This scheme shall also extend to the undertaking by the Central Government in relation to works in the course of construction which, when completed, will become factories and in relation to plant and machinery appertaining to such works, the same liabilities as are undertaken by this scheme in relation to factories, to the extent such plant or machinery is not for the time being covered against emergency risks by any other policy of insurance and also to

the extent such plant or machinery is not insurable for the time being under the Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962).

(2) A policy may be taken out optionally at the instance of the owner or the intending occupier in relation to the works and plant and machinery referred to in sub-paragraph (1). When any such option is exercised, an application for the policy shall be made within one month from the date of commencement of this scheme, or one month from the commencement of the works, whichever is later. An option once exercised shall be final, and where a policy of insurance has been taken out under this provision, it shall also be compulsory for the owner to take out policies of insurance in subsequent quarters until such time as the completed factory becomes compulsorily insurable under the provisions of paragraph 4.

6. Method of application. — (1) Every application for insurance under the scheme shall be in accordance with the form set out in Part A or Part B of the First Schedule according as the application is for an original or a supplementary policy and shall be made to the Government agent or to such officer of the Government agent as may be authorised by that agent in this behalf.

(2) Every such application shall be accompanied by a treasury chalan evidencing payment of the requisite premium into a Government treasury under the head LXIA-Receipts connected with the National Emergency, 1962 — Central — Insurance premiums under the Emergency Risks (Factories) Insurance Scheme.

(3) If there is any change in the ownership or occupation of a factory during the currency of a policy of insurance notice thereof shall be given to the Government agent in the form set out in the Seventh Schedule.

7. Mode of Valuation of insurable properties. — For the purpose of insurance under the Act, the insurable value of property shall be ascertained in accordance with the following principles: —

(a) The insurable value shall be the actual value in the case of completed works, and the estimated value of the works which are in the course of construction, or additions to property which are anticipated or expected to be completed, in both cases at the prices prevailing on the relevant dates after making due allowance for any depreciation.

(b) All plant and machinery which is part of the property to be insured under the scheme shall be valued as part of a going concern and not as scrap.

(c) The relevant dates referred to in clause (a) shall be —

- (i) in relation to completed works, the date from which the policy is to take effect, and
- (ii) in relation to works which are in the course of construction or additions to property which are anticipated or expected to be made, the last day of the quarter in which application for insurance is made.

8. Rate of premium. — (1) The premium payable under any policy of insurance issued in respect of the quarter ending on the thirty-first March, 1963, shall be payable at the rate of twenty-five naya paise for every hundred rupees or any part thereof of the sum insured.

(2) The amount of the premium payable under sub-paragraph (1) shall be rounded off to the nearest rupee and shall be payable in one lump sum in respect of the entire quarter for which the policy is or is continued in force, provided that if any factory becomes insurable under the scheme after the commencement of a quarter, the amount of the premium shall be payable in one lump sum, which shall be equivalent to the amount payable in respect of factories insurable during that entire quarter reduced by an amount which bears to the first mentioned amount the same proportion which the number of completed months in that quarter before the factory becomes insurable bears to three, the actual amount due in accordance with this provision being rounded off to the nearest rupee.

9. Issue of policy and verification of previous policies. — (1) If the application has been correctly made out in the prescribed form and is accompanied by a treasury chalan evidencing payment of the premium into a treasury under the head of account specified in sub-paragraph (2) of paragraph 6, the Government agent shall issue a policy of insurance as soon as possible after the receipt of the application.

(2) If no chalan accompanies an application, or if the chalan is not in order the application shall be returned to the applicant for re-submission along with the required chalan.

(3) If the chalan accompanying an application is in order but the application for Insurance is not received in accordance with the form set out in the First Schedule, the chalan may be retained by the Government agent and the application returned to the applicant for re-submission after being correctly made out.

(4) If the chalan accompanying an application form is for an amount which falls short of the premium due on the insurable value of the property, a policy for such proportion of the insurable value as the amount paid under the chalan bears to the premium due shall be issued and the applicant shall be asked to make a further application in respect of the balance of the insurable value of property which may remain uncovered.

(5) Notwithstanding anything contained in the provisions of the foregoing sub-paragraph, if an application shows that the applicant has taken out a policy of insurance in respect of the same property or any part thereof against fire, accident or marine risks, issued by any insurer, the Government agent may, in his discretion postpone, the issue of a policy under this scheme until enquires have been made from that insurer.

10. Form and duration of policy. — Every policy of insurance issued under the scheme shall be in the form set out in the Second Schedule, and shall be in respect of the period ending on the last day of the quarter for which the policy is issued.

11. Each factory to be covered by one policy. — (1) Every policy shall be in respect of property insurable under the Act appertaining to a single factory, provided however that when any plant, machinery or materials appertain to more factories than one, such plant, machinery or materials may be insured separately under a single policy issued in relation to the owner or occupier of any one of those factories.

(2) If during the currency of a policy, any additions are made to the property insurable under the Act appertaining to the factory, a supplementary policy shall be taken out in respect of such additions.

12. Date of effect of policies. — (1) Where the policy of insurance is in respect of a completed or normally working factory, the owner or occupier of which is required to take out a policy of insurance in accordance with the provisions of paragraph 4, the policy shall be issued so as to take effect from the date on which he becomes so liable, if the premium is paid in advance or within seven days of the date on which he becomes so liable and from the date of payment of the premium if the premium is paid after the expiry of seven days from the date on which he becomes so liable.

Provided that in the case of the quarter ending on the 31st March, 1963, the Central Government may extend the period of seven days aforesaid to any period not exceeding thirty days.

(2) Where the policy of insurance is in respect of works in the course of construction which, when completed, will become factories and plant and machinery appertaining to such works which are not compulsorily insurable but may at the option of the owner or intending occupier be insured under paragraph 5, the policy shall be issued so as to take effect from the date of commencement of the policy as stated in the application, if the premium is paid in advance or within seven days of such commencement and from the date of payment of the premium if the premium is paid after the expiry of seven days from the date of such commencement.

(3) For the purposes of sub-paragraph (1), the owner or occupier of a factory which is in existence at the date of commencement of this scheme shall be deemed to have become liable to take out a compulsory policy of insurance at the date of such commencement, and the owner or occupier of a factory which comes into existence after the date of such commencement shall be required to indicate in his application the date on which he becomes or has become so liable.

13. Failure to pay premium and evasion. — (1) Where any person has failed to pay any premium due from him or to insure as, or to the full amount, required by the Act and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, the amount evaded shall be determined in accordance with the Third Schedule.

(2) Every person against whom a determination has been made in pursuance of sub-paragraph (1) may, within the period laid down in the Third Schedule appeal to the Central Government whose decision shall be final.

(3) Where the amount determined under the provisions of sub-paragraph (1) or sub-paragraph (2) is fully recovered, the Government agent shall, as soon as possible after such recovery, send the requisite application forms to the defaulter for completion and return, and a policy or supplementary policy in respect of the property concerned according as the recovery is in respect of non-insurance or under-insurance shall be issued by the Government agent on receipt of the application correctly filled in the said policy being made out so as to take effect from the date the amount was fully recovered.

14. Loss of policy. — In the event of the loss of a policy, a duplicate policy shall not be issued, but if it is satisfactorily proved that a policy has been issued, the absence of that policy shall not be a bar to any claim thereunder.

15. Overlapping policies, cancellation and refund. — (1) Where it is established to the satisfaction of the Central Government that insurance under the scheme has been taken out separately by the owner and the occupier of a factory in respect of the same property, the policy taken out by either of them may be cancelled on their joint application and a refund of premium allowed in accordance with such joint application.

(2) Notwithstanding anything contained in this scheme, where a policy has been taken out in respect of any property insurable under the Act appertaining to a factory or other premises and that factory or premises is subsequently exempted under section 15 or is destroyed otherwise than by any action or measure comprised in the expression "emergency risks" the policy shall be cancelled with effect from the date on which the exemption takes effect or, as the case may be, the factory or premises are destroyed as aforesaid, and thereupon out of the amount of the premium collected immediately before the cancellation of the policy, in respect of the quarter in which the policy is cancelled a refund shall be made in the proportion which the number of complete months for which the policy is cancelled bears to three.

16. Share of risk to be borne by the insured person. — (1) The insured person shall bear in respect of each claim twenty per cent of the loss or damage.

(2) If the total value of the property insured shall exceed the sum insured under the policy, the insured person shall be considered as before his own insurer for the excess as well as for twenty per cent of the sum insured, for the purpose of his bearing a rateable proportion of the loss.

17. Mode of settlement of claims. — (1) Payment of compensation under the scheme shall be made, at the option of the Central Government, within the limits of the liability assumed by it, in any of the following forms, namely —

- (a) in a case where the Government exercises the option to pay the cost of restoring the property lost or damaged as far as practicable to the condition in which it existed before the occurrence of such loss or damage, on such restoration, in such manner and by such instalments as the Central Government may think fit; or
- (b) in a case where the Central Government decides to make the payment in instalments during the progress of the works relating to the restoration of the property lost or damaged, in instalments as determined by that Government and at the expiration, in the case of each instalment, of such period, after the restoration of the relevant parts, as may be required to ascertain the fact of restoration and the proper cost thereof; or
- (c) compensation for the loss in value, ascertained on the values and prices prevailing at the time at which the policy of insurance took effect, or at which the

loss occurred, whichever is less, suffered by the property as a result of the damage, after making due allowance for depreciation upto the time of the occurrence of the loss or damage, in such instalments, if any, as the Central Government may think fit.

(2) Any payment under sub-paragraph (1) may be postponed to a date later than one year from the date on which the Act ceases to be in force but in the event of any such postponement, simple interest at the rate of two per cent per annum from the expiry of the said one year shall be paid on the portion of claim admitted by the Central Government and remaining unpaid, until such time as the claim is discharged in full.

18. Statement of Claims, verification and payment.—(1) All claims shall be submitted in writing in the form given in the Fourth Schedule to the Government agent within the time specified in condition 7 of the conditions set forth in the Second Schedule.

(2) On receipt of a claim, the Government agent shall have the claim verified, and the loss or damage, if any, assessed by a person who is for the time being a loss assessor recognised by the Central Government in this behalf, or if the Central Government so directs, by such person or persons as may be specially deputed by it for this purpose.

(3) As soon as the loss assessor has verified the claim and assessed the loss or damage, if any, he shall make a report thereon to the Government agent, who shall after such further verification as he thinks fit to make, forward the report, with his remarks and recommendation to the Government of India in the Ministry of Finance (Department of Economic Affairs).

(4) On receipt of any payment under this scheme, the claimant shall give a receipt in the form set out in the Fifth Schedule.

19. Provision for safeguarding of property insurable under the scheme.—The Central Government may make regulations for safeguarding any property insurable under this scheme against loss or damage as a result of emergency risks or for minimising any such loss or damage and may without prejudice to the said regulations issue any general or special order, to all factories generally or to any particular factory as it may think fit for the purposes aforesaid.

(2) Any order issued under sub-paragraph (1) may require the owner or occupier of a factory in respect of which any payment towards the restoration of property has been made under this scheme to reconstruct the factory or to alter the premises thereof in such manner as to avoid or minimise the consequences of any future emergency risks or to provide for such safety or precautionary measures as may reasonably be necessary or if it is considered expedient or necessary so to do, to remove the factory or the premises, as the case may be, to any other site.

(3) Every owner or occupier shall comply with the requirements of any regulations or orders made in this behalf.

(4) Where the Central Government requires the owner or occupier of the factory to remove the factory or the premises to any other site as provided for in sub-paragraph (2), the Central Government

shall pay to such owner or occupier the cost or removal of the factory or the premises and the cost of replacement of any property for which compensation may not be otherwise payable but which may be lost or damaged as a result of such removal, on the receipt of a claim from the owner or occupier, and the procedure prescribed in paragraph 18 shall be followed, as far as practicable in relation to the verification and payment of any such claim.

20. Persons authorised for certain purposes of the Act.—The Central Government may authorise any person under section 8 of the Act to obtain any information and to do any other thing as provided for in the said section, and every person who is liable to taken out, a policy of insurance under this scheme shall at all times provide and cause to be provided all reasonable facilities to the person so authorised, for enabling him to discharge his duties in pursuance of or in relation to this scheme.

21. Publication of accounts.—An account of all sums received into and paid out of the Emergency Risks (Factories) Insurance Fund shall be prepared in the form set forth in the Sixth Schedule and shall be published annually.

22. Interpretation.—If any doubt arises in regard to the interpretation of any provisions of this scheme, the matter shall be referred to the Central Government whose decision thereon shall be final.

THE FIRST SCHEDULE

(See Paragraph 6)

PART A

FORM OF APPLICATION

Government of India

EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 of 1962)

Application for insurance of property insurable under the Act.

No:

1. Applicant's Name:
2. Address:
3. Business:
4. Description and Situation of the premises:
5. Are the premises a factory as defined in Section 2(m) of the Factories Act, 1948?
6. If not, and if they are in course of construction, will they be so when completed?
7. Date on which property to be insured became insurable:
8. What is the nature of your interest in the property to be insured?
9. If you are the occupier of the factory within the meaning of section 2(n) of the Factories Act 1948 but do not own the property, the following should be answered:—
 - (i) Name and address of owner:
 - (ii) Have you been requested by the owner to effect this insurance on his behalf?
 - (iii) If not, are you aware whether the owner is also applying for insurance?
10. Description of property to be insured:
11. Are the Buildings, Plant, Machinery and Materials of the property to be insured, insured against Fire, Accident or Marine Risks?
12. If so, state (a) Name of insurer.
 - (b) Total sum insured on
 - (i) the Buildings Rs.
 - (ii) the Plant, Machinery & Materials Rs.

Total Rs.

13. Insurable value, that is to say, the value after making allowance for depreciation on the date of this application, of:—
(a) the Buildings Rs.
(b) the Plant, Machinery & Materials. Rs.
Total Rs.
14. In the case of works in course of construction what is the estimated value on the last day of the Quarter in which the insurance is effected, of:—
(a) the Buildings Rs.
(b) the Plant, Machinery & Materials. Rs.
Total Rs.

Note.— Separate amounts must be declared as between (a) and (b) in answer to questions 13 and 14 but separate amounts need not be declared against each block. In the event of a claim, however, the claimant may be called upon to show in detail how the valuation has been made up.

15. (i) Has any other person any insurable interest in the property to be insured?
(ii) If so, give particulars:
16. Date from which insurance is to commence.

I/We warrant that the above statement and particulars are true and I/we request you to effect Emergency Risks (Factories) Insurance on my/our behalf with the Government of India in terms of the standard policy which I/we agree to accept.

I/We further agree that this application shall be the basis of the contract between the President and myself/ourselves.

I/We enclose chalan dated for Rs. paid into

- *The Treasury
*Reserve Bank of India
*State Bank of India

at
Date
Signature of applicant
(*Strike out whichever is inapplicable)

ACKNOWLEDGEMENT

EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 OF 1962)

Received from application number dated along with chalan dated for Rs. paid into

- *The Treasury
*Reserve Bank of India
*State Bank of India

at
Date
Signature of authorised representative of Government Agent.

(*Strike out whichever is inapplicable)

PART B

FORM OF APPLICATION FOR A SUPPLEMENTARY POLICY

Government of India

EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 OF 1962)

Application for supplementary insurance

No:

1. Applicant's Name:
2. Address:
3. Business:
4. Description and Situation of the premises:
5. Numbers of the previous policies (original and supplementary) under the Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962):
6. Amounts insured by the previous policies on
(a) the Buildings Rs.
(b) the Plant, Machinery and Materials Rs.
Total Rs.
7. Description of the property to be insured:

8. Additional amounts for which insurance is now to be effected on:
(a) the Buildings Rs.
(b) the Plant, Machinery and Materials Rs.
Total Rs.

9. Reasons for making this application:

10. (i) Has any other person any insurable interest in the property to be insured?
(ii) If so, give particulars:

11. Date from which insurance is to commence.

I/We warrant that the above statement and particulars are true and I/we request you to effect Emergency Risks (Factories) Insurance on my/our behalf with the Government of India in terms of the standard policy which I/we agree to accept.

I/We further agree that this application shall be the basis of the contract between the President and myself/ourselves. I/We enclose chalan dated for Rs. paid into

- *State Bank of India
*The Treasury
*Reserve Bank of India

at
Date
Signature of applicant.
(*Strike out whichever is inapplicable)

ACKNOWLEDGEMENT
EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 OF 1962)

Received from application number dated along with chalan dated for Rs. paid into

- *The Treasury
*Reserve Bank of India
*State Bank of India

at
Date
Signature of authorised representative of Government Agent.

(*Strike out whichever is inapplicable)

SECOND SCHEDULE

(See Paragraph 13)

Government of India

EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 OF 1962)

Policy No.....
Supplementary to
Policy No.....

Policy of Insurance in respect of properties insurable under the Act.

This Policy and the Specification hereto (which forms an integral part of this Policy) shall be read together as one contract, and the words and expressions to which specific meanings have been attached in the Specification shall bear those meanings wherever they may appear.

THE SPECIFICATION

The President.
The Government Agent
The Insured
Address
The Insured's business
The Property insured
Description and Situation of Property insured

Sum for which insured:

- (a) Buildings Rs.
(b) Plant, Machinery & Materials. Rs.
Total Rs.....

Period of Insurance:

From the day of 19
to the day of 19
Premium Rs.

the Treasury
Paid into Reserve Bank of India on the... day of... 19 at...
State Bank of India

Whereas the Insured has made and forwarded to the Government Agent a signed application for insurance, which application he has agreed shall be the basis of this Policy, and has paid the amount of premium named above.

Now this Policy witnesseth that in consideration of the Insured paying to the President the said premium, the President agrees (subject to the conditions contained herein, which conditions shall, so far as the nature of them respectively will permit, be deemed to the conditions precedent to the right of the Insured to recover hereunder) that if during the period of insurance stated above the property insured or any part of such property shall suffer any loss or damage, being loss or damage, caused by any act comprised in the expression «Emergency Risks» as defined for the time being in the Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962) hereinafter referred to as «the Act» the President will indemnify the Insured against diminution in value caused by that loss or damage to the extent provided by or under the Act.

In witness whereof, I, being duly authorised in that behalf have hereto set my hand for and on behalf of the President.

Signed for and on behalf of the President
..... this day of 19...

CONDITIONS

1. The President shall be under no liability under any policy of insurance to which these conditions apply (hereinafter referred to as «the policy») if and in so far as the Insured is not entitled to be insured for the sum thereby insured in respect of the property insured under the Act.

2. The liability of the President under the policy shall not exceed in the aggregate eighty per cent. of the sum thereby insured, and after the happening of any loss or damage the sum insured by the the policy shall be deemed to be reduced by the amount of that loss or damage, and thereupon the liability of the President shall be limited to eighty per cent. of the reduced sum.

3. The Insured shall bear, in respect of each claim, twenty per cent. of the loss or damage.

4. If at the time of the happening of any loss or damage the sum insured by this policy shall be less than (a) the total value of the property at the time of the loss or damage or (b) the total value of the property on the date of commencement of insurance whichever is less the insured shall be considered as being his own insurer for the excess as well as for twenty per cent. of the sum insured for the purpose of his bearing a rateable proportion of the loss.

5. If at the time of the happening of any loss or damage there be any other insurance effected by or on behalf of the Insured covering any of the property suffering that loss or damage against emergency risks, the liability of the President under the policy shall be limited to eighty per cent. of its rateable proportion of such loss or damage.

6. The Insured shall at the request and expense of the President do and concur in doing and permit to be done all such acts and things as may be reasonably required by the President for the purpose of enforcing any rights and remedies to which the President is or would become entitled or subrogated upon paying for or making good any damage, whether such acts and things shall be required before or after that indemnification by the President.

7. On the happening of any loss or damage the Insured shall forthwith give notice thereof in writing to the Government agent, and shall within fifteen days after such loss or damage, or such further time as the Government agent may in writing allow, at his own expense deliver to the Government agent a claim in writing containing as particular an account as may be reasonably practicable of the several articles or portions of property suffering that loss or damage and of the amount of such loss or damage having regard to their value on the basis of the values and prices prevailing on the date of commencement of the insurance or on the date on which the damage or loss occurred whichever is less together with details of the interest of any person other than the Insured in the property insured and details of any other insurances on the property insured. The Insured shall also give to the Government agent all such proofs and information with respect to the claim as may reasonably be required, together with (if demanded) a declaration verified by an affidavit, of the truth of the claim and of any matters connected therewith. No claim under the policy shall be payable, unless the terms of this condition have been complied with.

8. If the claim be in any respect fraudulent, or if any fraudulent means or devices be used by the Insured or any-

one acting on his behalf to obtain any benefit under this policy, or if any loss or damage be occasioned by the wilful act or with the connivance of the Insured, all benefits under the policy shall be forfeited.

Provided that the benefits under the policy shall not be forfeited even though the loss or damage is occasioned by the wilful act with the connivance of the Insured, when the wilful act is done under orders of proper authority, or where the Insured permits certain measures to be taken under orders of proper authority, and if any question arises as to whether any act of the kind mentioned above has been taken under proper authority, the Central Government shall decide the matter and such decision shall be final and fully binding on the Insured.

9. On the happening of any loss or damage, in respect of which a claim is or may be made under the policy, the Government agent and every person authorised by the Government agent may, without thereby incurring any liability, and without diminishing the right of the President to rely upon any conditions of the policy enter, take or keep possession of the building or premises where the loss or damage has happened, and may take possession of or require to be delivered to them any of the property insured, and may keep possession of and deal with such property for all reasonable purposes and in any reasonable manner. This condition shall be evidence of the leave and licence of the Insured to the President so to do. If the Insured or any one acting on his behalf shall not comply with the requirements of the President, or shall hinder or obstruct the President or any person acting on his behalf in doing any of the above mentioned acts, then all benefits under this policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to the President whether taken possession of by the President or not.

10. No refund of premium shall be allowed in respect of the policy except as provided by or under the Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962).

11. In the event of a transfer of interest, this policy may be assigned but such assignment shall not take effect until notice of assignment has been given to the President.

12. The Insured shall at all times take due precautions for the safety of the property insured having regard to the nature thereof, and in particular, if at any time any property insured sustains damage due to emergency risks, the Insured shall take all reasonable steps to preserve the property insured from damage or further damage, as the case may be.

13. If in this application for the insurance effected by the policy, the Insured shall have intentionally made a material mis-statement as to the value of the property insured all benefits under the policy shall be forfeited.

14. If the Insured shall fail to comply with any regulations or instructions made or issued under the authority of the Central Government for safeguarding the property against loss or damage from emergency risks, all benefits under the policy shall be forfeited.

15. The amount which the Insured may provide for depreciation and which may be entered in the annual accounts of the Insured shall not be taken as final and conclusive as against either the President or Insured in settling any loss or damage which may occur.

16. If the President elects to pay eighty per cent. of the cost of restoring any property insured, the Insured shall at his own expense produce and give to the President all such plans, documents, books and information as the President may reasonably require. The President shall not be bound to pay the cost of exact or complete restoration but only of such restoration as circumstances permit and as is reasonably sufficient and shall not in any case be bound to expend in respect of the property insured more than eighty per cent. of the sum insured thereon.

17. If the President elects to pay eighty per cent. of the cost of restoring the property insured, the Insured shall, if so required by the President reconstruct the factory or remove the factory to and reconstruct it in such other locality as may be specified by the President, in which case the Insured shall be compensated for the cost of removing and if necessary replacing such part of the property not affected by the loss or damage.

18. The following condition may be included in the policy at the request of the Insured:—

«It is hereby agreed and declared that shall, to the extent of their interest in the property insured, be entitled jointly with the Insured to the rights hereby granted to the Insured, but not so as to grant to them any further or greater rights than those of the Insured under this Policy».

THIRD SCHEDULE
(See Paragraph 18)

Where any Officer authorised in this behalf by the Central Government, has reason to believe that the owner or occupier of any property insurable under the Act situated within the area over which he is authorised to act, has failed to insure as, or to the full amount, required by the Act or the scheme, or having applied for a policy of insurance under the Act or the scheme has failed to pay any premium payable under the Act within seven days of the date of commencement of the policy as stated in the application, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, the Officer may serve on such owner or occupier a notice requiring him (i) to show cause on a date and at the time and place specified in this behalf why he failed to insure the property as, or to the full amount, required by the Act, and further (ii) to produce before the Officer on such date any document or other evidence in support of his case.

2. Upon cause being shown and after giving the defaulter an opportunity of being heard in support of the cause, the Officer shall assess the insurable value of the property and shall determine on the basis of such assessment the amount of premium, if any, payment of which has been evaded by the defaulter. In doing so, the Officer shall take into consideration such information as he may have received in accordance with section 8 after giving the defaulter an opportunity to explain the same.

3. If an owner or occupier fails to show cause against a notice issued under paragraph 1 of this Schedule the Officer shall assess the insurable value of the property on the strength of such materials as may be available to him and shall determine on the basis of such assessment the amount of premium payment of which has been evaded by the defaulter.

4. When any sum has been determined in accordance with paragraph 2 or paragraph 3 of this Schedule the Officer shall send to the defaulter a copy of his recorded assessment and determination, duly certified by him, and serve on him a notice of demand specifying (i) the amount payable by him, (ii) the date within which it shall be paid and (iii) the treasury into which it shall be paid.

5. Any person against whom an assessment and a determination have been made in accordance with paragraph 2 or paragraph 3 of this Schedule may appeal to the Government of India, Ministry of Finance, Department of Economic Affairs within thirty days of the date of receipt of the notice of demand.

6. Where an assessment and a determination is made against more persons than one in respect of the same property, every person preferring an appeal shall do so separately and in his own name.

7. An appeal under paragraphs 5 or 6 above shall contain all material statements and arguments relied on by the appellant, shall be accompanied by a copy of the notice of demand served upon the appellant, shall be preferred through the authority against whose order the appeal is preferred.

8. The appellate authority shall consider

- (a) whether the facts on which the notice of demand was based have been established, and
- (b) whether the sum determined as payable is excessive, adequate or inadequate,

and after such consideration shall pass such order as it thinks proper. But no order enhancing the amount determined as payable by the appellant shall be passed without first communicating to him the grounds on which such order is proposed to be passed and giving him an opportunity to show cause against the same.

9. The appellant shall have no right to appear in person or to be represented before the appellate authority.

FOURTH SCHEDULE
(See Paragraph 18)

Government of India
EMERGENCY RISKS (FACTORIES)
INSURANCE ACT, 1962 (63 OF 1962).
Statements of claims under the Act

Through Government Agent
at
I/We of (address)
.....

do hereby solemnly declare that on or about
O' clock A.M./P.M. Indian Standard Time on the
day of 19 .., property which was insured
under the policy or policies detailed in Schedule A annexed
hereto, was destroyed or damaged by an act comprised in the
expression «Emergency Risks» as defined by the Emergency
Risks (Factories) Insurance Act 1962 (63 of 1962). The
actual details of the act (manner in which the damage occurred)
are given below:—
.....

I/We further solemnly declare that at the time of the said
loss or damage the actual value of the property as described
in the said policy or policies amounted to Rs
as more particularly set forth in the annexed Schedule B,
and that apart from myself/ourselves no person other
than has any interest in
the said property.

I/We therefore claim from the Government of India the
sum of Rupees as detailed in Schedule C
annexed hereto and I/We solemnly declare that this
Statement of Claims is a true and accurate statement of the
loss sustained by me/us, without inclusion of profit of any
kind.

Declared before me
this day of 19... Signed
and identified by
who is personally known to me.

COURT SEAL
MAGISTRATE

SCHEDULE A

Statement of Policies in force on the date of loss or damage

(1)	(2)	(3)	(4)
Policy No.	Date of Issue	Sum Insured	The property insured as described in Policy.

SCHEDULE B

Statement of property insured under the Act.

(1)	(2)	(3)
Description of Property	Sound value of Property	Location of Property

in

accepting the above assignment agree that the application form referred to in the Policy as forming the basis thereof shall continue to form the basis of the policy.

Witness to Signature (Signature of assignee).

Registered in the Office books of the Government Agent at this day of

(Signature of Government Agent).

Note.—In registering the assignment the President is not to be understood to express any opinion as to the validity or otherwise of the Deed or Deeds of which he receives notice.

The original of this form is to be returned to the Assignee.

The duplicate of this form is to be sent to the Accounts Officer concerned.

The triplicate of this form is to be retained by Government Agent.

FORM 2

CHANGE OF OCCUPIER

EMERGENCY RISKS (FACTORIES) INSURANCE ACT, 1962 (63 OF 1962)

Notice of change of Occupier to be completed in triplicate and sent for registration to the Government Agent.

Policy No.

Buildings Rs.

Machinery/Plant/Materials Rs.

Total Rs.

Description and Situation of Property.

Name and address of Owner.

I/We do hereby assign all our right to act as Agent of the Owner in the matter of maintaining the above policy in force, to the Occupier namely

Dated this day of 19 .

Witness to signature

(Signature of Occupier)

I/We being the new Occupier/Occupiers in accepting the above assignment agree that the application form referred to in the Policy as forming the basis thereof shall continue to form the basis of the Policy.

(Signature of new Occupier)

Witness to signature.

Registered in the office books of the Government Agent at this day of 19 .

(Signature of Government Agent)

Note.—In registering the assignment the President is not to be understood to express any opinion as to the validity or otherwise of the Deed or Deeds of which he receives notice. After registration the original of this form must be sent to the new Occupiers, the duplicate to the Accounts Officer concerned and the triplicate retained by the Government Agent.

[No. F. 112(9)-INS/I/62]

A. BAKSHI, Jt. Secy.

GOVERNMENT OF GOA, DAMAN AND DIU

Secretariat

ORDER

In exercise of the powers conferred by the Goa, Daman and Diu (Administration) Removal of Difficulties Order 1962 and notwithstanding anything to the contrary contained in any law for the time being in force in this Territories, I hereby order that the subsidy to fishermen on purchase of fishery requisites will be granted under following rules.

Rules for subsidy on purchase of fishery requisites

1. Subsidy will be granted to those fishermen engaged in fishing activities and are residents of Goa, Daman and Diu.

2. Subsidy will be granted on purchase of Nylon, hemp twine, cotton twine, fish hooks and sail cloth.

3. Rate and maximum limit in granting this subsidy are as follows:

Sea water fishing

S. No.	Fishing equipment	Maximum limit	Rate of subsidy	Remarks
1	Nylon	40 lbs. per boat per year	33 1/3 % or Rs. 6/- per lb. whichever is less	For boats above three tonns
		20 lbs. per boat per year		For boats below three tonns
2	Hemp twine	400 lbs. per boat per year	33 1/3 % or Rs. 120/- for 100 lbs. whichever is less	For boats above three tonns
		No		For boats below three tonns
3	Cotton twine	500 lbs. per boat per year	33 1/3 % or Rs. 1/- per lb. whichever is less	
4	Sail cloth	50 yards per boat per year	20% or 25 n. P. per yard whichever is less	
5	Fishing hooks	Unlimited	25 % or Rs. 25/- for 1000 hooks whichever is less	

Fresh water fishing

S. No.	Fishing equipment	Rate of subsidy	Remarks
1	Nylon	33 1/3 % or Rs. 3/- per lb. whichever is less	6 lbs. per each fisherman and 8 lbs. in special cases
2	Cotton twine	33 1/3 % or Rs. 1/- per one whichever is less	10 lbs. per fisherman 30 lbs. per fisherman engaged in drag net fishing
3	Hemp twine	33 1/3 % or Rs. 120/- for 100 lbs. whichever is less	30 lbs. per fisherman

4. Subsidy will also be granted to societies which are engaged in fresh water fishing and in fish culture in fresh water; but in this case right of fixing the rate and a maximum limit of subsidy according to each purchase will remain with this Directorate.

5. Subsidy will be calculated according to each financial year (1st April to 31st March) and all transactions regarding subsidy will be closed by end of the financial year. No new application for subsidy

for that financial year will be entertained from 28th February of that year to beginning of new financial year.

6. As far as possible all fishermen should purchase their fishing equipment from the Fisheries Societies only. Subsidy will be granted on equipment purchased from Registered Fisheries Societies. Subsidy will also be granted on fishing equipment purchased from reliable dealers, when it is not available with the societies.

7. Each Society should communicate information regarding each fishermen in specimen form given below:

1 Serial No.	2 Name of the Vessel	3 V. R. C. No. New & Old	4 Name of the V. R. C.
5 Boat Owner's name		6 Boat owner's Address (Residential place & District)	
7 Purchaser's name			
8 Purchaser's Address (Residential place & District)		9 Kind and price rate per lb. or Kg. of fishing equipment purchased by a fisherman	
10 Receipt No. & date	11 Purchased from whom	12 Remarks	

8. Each application for subsidy should be accompanied by certificate in specimen form given below:

This is to certify that Shri from has purchased the equipment as mentioned in the supplement attached to this application.

Society's seal

Designation of the officer bearer of the Society

9. Application for subsidy on purchase of fishing equipment will be accepted in the Directorate of Fisheries, Government of Goa, Daman and Diu, Panjim and its offices.

10. The subsidy sanctioned to the fishermen will be credited to his loan account, if he is in arrears and receipt for the same will be issued to him.

11. Receipts should be issued by society or private dealers in the name of the owner of the vessel though

the fishing equipment is purchased by any member of group.

12. Subsidy will be granted on original receipts and not on copies of receipts.

13. Following points should be noted while issuing the receipts:

- a) Receipts should be issued by copying pencil or ink.
- b) It should be clearly stated on receipt whether it is cash memo or credit memo. Otherwise the subsidy will not be granted.
- c) Receipt should be printed. It should indicate the name and address as well as the Society's name and general tax number and should be signed by the office bearer of the Society.
- d) The original receipt and a true copy of the same should be produced while claiming the subsidy.
- e) Each receipt should carry owner's/owner's full name/names; name, number and tonnage of the boat as per V. R. C. of the Register of the Captain of Port.

14. Only these applications from the Society, from when equipment has been purchased, will be considered.

15. When the fishing equipment is purchased by the fishermen in the open market due to the absence of a Fisheries Cooperative Society in his village and nearby, he should produce a certificate from an officer of this Directorate and village Sarpanch in the specimen form given below:

Specimen form of Certificate

This is to certify that Shri has purchased the fishing equipment mentioned in the accompanied receipt from the market for fishing business as there was no fisheries cooperative society in the village and nearby.

Place:

Date:

Local fishing officer or village sarpanch

16. Applications for subsidy should be sent to this Directorate or its offices within two months from the date of purchase of fishing equipment. Applications received late will not be entertained under any circumstances.

17. The amount sanctioned for the subsidy will be sent to the respective fisheries Cooperative Societies for distribution to the fishermen. The Society should distribute the amount of subsidy to the fisherman within a fortnight from the date of receipt of the amount and should remit to this Directorate the stamped receipts from the fishermen within fifteen days of the date of the disbursal of the amount.

18. Officers and inspectors of this Directorate will inspect the accounts of the fisheries cooperative Societies from time to time. The Society should produce all relevant correspondence, registers and books and other material before the officers and inspectors. In case the Society fails to produce the relevant documents before the officer of this Directorate, the appli-

cations received from the society for subsidies will not be entertained.

19. This Directorate will inspect from time to time the equipment for which subsidy is granted to the fishermen and the Fisheries Cooperative Societies. In such cases requisite facilities should be given to the inspecting officers of this Directorate by societies and fishermen and necessary information should be supplied.

20. This Directorate has a right to refuse or keep pending grant of subsidy to any fisherman or society, if required.

21. These rules will be made applicable from 15-8-1963.

P. J. Fernandes

Chief-Secretary

Panjim, 27th August, 1963.